

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 05-469 JB

EDUARDO HERNANDEZ-MEJIA,

Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the parties' Joint Unopposed Proposed Motion Requesting Stipulated Order Finding Eduardo Hernandez Competent To Proceed To Trial And To Vacate March 5, 2008 § 4241(d) Hearing, filed February 15, 2008 (Doc. 396) ("Joint Motion"). Even though the parties submitted a proposed stipulated order, the Court held a competency hearing on March 7, 2008. The primary issue is whether Defendant Eduardo Hernandez-Mejia is competent to understand the nature and the consequences of the legal proceeding against him, and to assist properly in his defense in the case. The Court finds that Hernandez-Mejia is competent to proceed to trial.

ANALYSIS

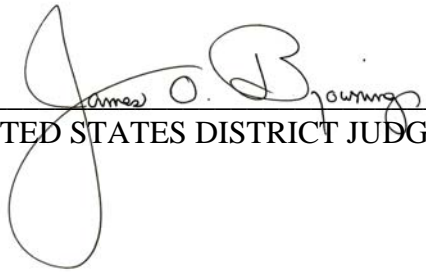
On August 20, 2007, Hernandez-Mejia's counsel raised the issue of competency after several meetings with Hernandez-Mejia. See Motion for Psychiatric/Psychological Exam and to Stay Proceedings by Eduardo Hernandez-Mejia, filed August 20, 2007 (Doc. 381). On September 4, 2007, the Court issued an Order staying proceedings to determine Hernandez-Mejia's competency. See Memorandum Opinion and Order, filed September 4, 2007 (Doc. 384). By stipulation, the

United States and Hernandez-Mejia's counsel agreed that Eric Westfried, Ph.D., should be the expert to assess Hernandez-Mejia's competency. See Stipulated Order, filed October 9, 2007 (Doc. 385).

Dr. Westfried met with Hernandez-Mejia on November 27 and 28, 2007, and performed a battery of tests designed to determine Hernandez-Mejia's competency. See Joint Motion, Exhibit A, Competence to Stand Trial Evaluation by Eric Westfried, Ph.D. ("Letter"). The Court is in receipt of Dr. Westfried's January 9, 2008 opinion letter in which Dr. Westfried opines that Hernandez-Mejia "has no significant cognitive or other mental disorders affecting his competence to proceed on his charges. He has a factual as well as rational understanding of the proceedings against him, and is able to assist in his defense." Letter at 1.

All parties and the Court have received Dr. Westfried's opinion letter, and the Court notes that it is already in the record and marked as Exhibit A in the parties' Joint Motion filed February 15, 2008. See Joint Motion at 2; Letter. According to the parties' Joint Motion, Dr. Westfried's January 9, 2008 opinion letter allays all interested parties' concerns regarding Hernandez-Mejia's competency. See Joint Motion at 2. All parties believe that the Court should enter an Order finding Hernandez-Mejia competent and that this matter should be set for trial. See id. at 2. Accordingly, the Court finds that Hernandez-Mejia is mentally competent to the extent that he is able to understand the nature and consequences of the proceedings against him, and to assist properly in his defense.

IT IS ORDERED that the September 4, 2007 Order Staying Proceedings is lifted. The Court is satisfied, based on the January 9, 2008 opinion letter by Dr. Westfried, Ph.D., the March 7, 2008, 18 U.S.C. § 4241(d) hearing, and the parties' representations, that Defendant Eduardo Hernandez-Mejia is competent to proceed to trial.



UNITED STATES DISTRICT JUDGE

Counsel:

Gregory J. Fouratt
United States Attorney
Damon Martinez
Assistant United States Attorney
Albuquerque, New Mexico

Attorneys for the Plaintiff

Edward O. Bustamante
Albuquerque, New Mexico

Attorney for Defendant Eduardo Hernandez-Mejia